

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ARNOLD DAVILA, JR.,

Plaintiff,

VS.

ERICKSON & JENSEN SEAFOOD
PACKERS, *et al*,

Defendants.

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CIVIL ACTION NO. 2:12-CV-283

ORDER

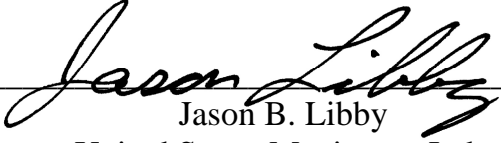
Pending before the Court is Defendants' Motion for Leave to Amend Defendants' Original Answer filed by Grant Erickson and Erickson & Jensen Seafood. (DE 35). For the reasons stated below, this Motion is **GRANTED**.

Rule 15(a) of the Federal Rules of Civil Procedure provides that, within specified time limits, a party may amend his pleading once as a matter of course. Otherwise, a party may amend its pleadings "by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). Determining when "justice so requires" rests within sound discretion of the district court, which should err on the side of allowing amendment although it should not be granted automatically. *State of Louisiana. v. Litton Mortg. Co.*, 50 F.3d 1298, 1303 (5th Cir. 1995); *See also Chitimacha Tribe of Louisiana v. Harry L. Laws Co. Inc.* 690 F.2d 1157, 1163 (5th Cir. 1982). In exercising its discretion, a court may consider such factors as (1)

undue delay; (2) bad faith or dilatory motive on the part of the movant; (3) repeated failure to cure deficiencies by amendments previously allowed; (4) futility of amendment; and (5) undue prejudice to the opposing party by virtue of allowance of the amendment. *Id.*

Defendants filed this Motion within the deadlines set by this Court in the scheduling order (DE 31) and have not previously amended their answer. The trial in this matter is not set until April 14, 2014. Therefore, after consideration of the Motion, and for good cause, the Court hereby finds leave to amend should be given and this Motion is **GRANTED**.

ORDERED this 7th day of October, 2013.


Jason B. Libby
United States Magistrate Judge